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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/190,567 . 11/12/98 BARTON

B 97-2517

MMC2/0323

KAARDAL & ASSOCIATES, P.C.  
3500 SOUTH FIRST AVE. CIRCLE-SUITE 250  
SIOUX FALLS SD 57105-5807

EXAMINER

RODRIGUEZ, D

ART UNIT

PAPER NUMBER

2876

*#5*

DATE MAILED:

03/23/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/190,567

Applicant(s)  
Blain BARTON

Examiner  
Douglas X. Rodriguez

Group Art Unit  
2876



☒ Responsive to communication(s) filed on Nov 11, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-16 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-16 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

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DETAILED ACTION

*Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohno U.S. Patent No. 5,042,619 in view of Fernandez-Holmann U.S. Patent No. 5,787,404.

Kohno discloses a system comprising, in combination: a scanner, a POS ; a card reader; a coin collector; a debit/credit card provider connected to the card reader (column 3, lines 46-68; column 4, lines 1-68).

Kohno fails to teach that said system automatically makes contributions to a savings program upon making a purchase with a card.

Fernandez-Holmann teaches such claimed limitations. Fernandez-Holmann discloses a credit-card based retirement fund system, wherein a percentage of a consumer's's purchase with a card is added to an investment account (column 2, lines 56-68; column 3, lines 1-4, 31-35).

1           To adapt Fernandez-Holmann's credit-card based retirement fund system to Kohno's  
2 device, would have been obvious to one of ordinary skill in the art at the time of the invention.  
3 This would have been done with the purpose of providing an automatic funding of a retirement  
4 or pension plan account which is not dependent on the workers employment situation and  
5 which allows flexibility in cash flow for the consumer while maintaining a certain degree of  
6 discipline in savings.

7           Kohno and Fernandez-Holmann also fail to teach the use of a debit-card and/or  
8 calling-card purchases as contributing means to the retirement system, they simply disclose the  
9 use of a credit card as such means. However, credit cards, debit cards, calling cards are all  
10 considered art recognized equivalents since they all allow a consumer to make a purchase of a  
11 good. To simply expand, Kohno in view of Fernandez-Holmann's teachings so as to include  
12 debit and calling cards, would there for have been an obvious expedient to one of ordinary  
13 skill in the art at the time of the invention. This would have been done in order to increase the  
14 sources from which contributions could be made to the retirement plan.

15           Regarding claim 6, wherein it is claimed that the monetary amount includes a  
16 percentage of a total sale amount at a point of sale, Fernandez-Holmann teaches such claimed  
17 limitation (column 3, lines 32-35).

18           As for claims 7-8, 10, and 14-16, Fernandez-Holmann fails to teach the step wherein  
19 the monetary amount includes a difference between a total sale amount at a point of sale and a

1 rounded up dollar value as well as other forms in which the amount of contribution is set. To  
2 modify the amount of money that can be contributed to the savings or retirement plan is an  
3 obvious modification to anyone of ordinary skill in the art. Therefore, to set the monetary  
4 amount to be the difference between a total sale amount at a point of sale and a rounded up  
5 dollar value, would have been obvious to one of ordinary skill in the art at the time of the  
6 invention. This would have been done in order to give the purchaser flexibility in choosing  
7 the amount he/she wishes to contribute to the savings/retirement plan.

8  
9 *Conclusion*

10 3. The prior art made of record and not relied upon is considered pertinent to applicant's  
11 disclosure.

12 Wolfberg et al. U.S. Patent No. 5,214,579. Discloses a data processing system which  
13 manages, monitors and reports the growth of a participant's investment.

14 McCarthy U.S. Patent No. 5,287,268. Discloses a centralized system of accumulating cash  
15 for consumers based upon POS transactions.

16 Fukatsu U.S. Patent No. 5,302,811. Discloses a POS apparatus including a  
17 depositing/withdrawing apparatus.

18 Wolfberg et al. U.S. Patent No. 5,745,706. Discloses a computer system for managing an  
19 investment and spending account.

1 Ferguson et al. U.S. Patent No. 5,991,736. Discloses a patronage incentive system in which a  
2 monetary award is made to a customer's retirement account.

3  
4 4. Any inquiry concerning this communication or earlier communications from the  
5 examiner should be directed to Douglas X. Rodriguez whose telephone number is (703) 308-  
6 4081.

7 If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
8 supervisor, Donald T. Hajec, can be reached on (703) 308-4075. The fax phone number for  
9 this Group is (703) 308-7723.

10 Communications via Internet e-mail regarding this application, other than those under  
11 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and  
12 should be addressed to [douglas.rodriguez@uspto.gov].

13 All Internet e-mail communications will be made of record  
14 in the application file. PTO employees do not engage in Internet  
15 communications where there exists a possibility that sensitive  
16 information could be identified or exchanged unless the record  
17 includes a properly signed express waiver of the confidentiality  
18 requirements of 35 U.S.C. 122. This is more clearly set forth in  
19 the Interim Internet Usage Policy published in the Official  
20 Gazette of the Patent and Trademark on February 25, 1997 at 1195  
21 OG 89.

5. If the applicant wishes to send a fax transmission which may be intended as non-official for consideration by the examiner for interviews or other purposes, the fax should be clearly marked:

1.) "DRAFT" and/or "COURTESY COPY" on the fax cover sheet along with a statement "DELIVER DIRECTLY TO EXAMINER", and

2.) Should be unsigned by the attorney or agent.

This will ensure that such an un-official fax transmission will not be entered into the application.

*Papers related to the application may be submitted to Technology Center 2800 by fax transmission. Papers should be faxed to Technology Center 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine numbers are: (703) 308-7722, (703) 308-7724, (703) 308-7382, (703) 305-3431, and 305-3432.*

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is:  
(703) 308-0956.


*Douglas X. Rodriguez*

Douglas X. Rodriguez

Patent Examiner

GAU 2876

March 22, 2000

  
**Michael G Lee**  
**Primary Examiner**